

AMENDED IN ASSEMBLY AUGUST 25, 2009

AMENDED IN ASSEMBLY AUGUST 17, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

Assembly Joint Resolution

No. 13

Introduced by Assembly Member Ammiano

April 2, 2009

Assembly Joint Resolution No. 13—Relative to blood donation.

LEGISLATIVE COUNSEL'S DIGEST

AJR 13, as amended, Ammiano. Blood donation.

This measure would request that the President of the United States encourage, and that the Secretary of the United States Department of Health and Human Services adopt, policies that repeal the current donor suitability and deferral policies of the federal Food and Drug Administration regarding the donation of blood and blood products by gay, bisexual, transgender, and heterosexual males.

Fiscal committee: no.

- 1 WHEREAS, ~~The California State Legislature encourages~~
2 ~~nondiscrimination~~ *California law prohibits discrimination* against
3 individuals on the basis of actual or perceived sex, sexual
4 orientation, ~~and gender identity and expression~~ *gender identity,*
5 *and gender-related appearance and behavior*; and
6 WHEREAS, The American Red Cross (ARC) has joined the
7 American Association for Blood Banks (AABB) and America's
8 Blood Centers (ABC) in asking for guidelines that treat all donors
9 equally; and

1 WHEREAS, The current federal Food and Drug Administration
2 ~~(FDA) policy, passed in 1985, prohibits any man who has had sex~~
3 ~~with another man since 1977 from donating blood for the rest of~~
4 ~~his life; and (FDA) donor deferral policy, first established in 1983,~~
5 *effectively prohibits blood donation by men who have had sex with*
6 *another man even one time since 1977; and*

7 WHEREAS, The American Medical Association (AMA) House
8 of Delegates and the HIV Medicine Association (HIVMA), within
9 the Infectious Disease Society of America, have requested that the
10 FDA abandon these current donor policies in favor of policies
11 consistent with sound science; and

12 WHEREAS, The AABB, ABC, and ARC, on March 9, 2006,
13 at the Blood Products Advisory Committee of the FDA, at a
14 workshop titled “Behavior-Based Blood Donors Deferrals in the
15 Era of Nucleic Acid Testing (NAT),” issued a joint statement
16 affirming that they believe that the current lifetime deferral for
17 men who have had sex with other men is medically and
18 scientifically unwarranted and recommended that the deferral
19 criteria be modified and made comparable with criteria for other
20 groups at increased risk for sexual transmission of
21 transfusion-transmitted infections; and

22 WHEREAS, It does not appear rational to broadly differentiate
23 sexual transmission via responsible male-to-male sexual activity
24 from transmission via responsible heterosexual activity on scientific
25 grounds. To many, this differentiation is unfair, creates stigma
26 without any justifiable public health imperative, and results in
27 negative attitudes to blood donor eligibility criteria and blood
28 collection facilities; and

29 WHEREAS, Blood banks in the United States routinely operate
30 with a short blood supply. After significant disasters or national
31 emergencies, the AABB, ABC, and ARC have each reported
32 regions operating with less than two days supply of blood; and

33 WHEREAS, Many men who have sex with men are healthy, do
34 not present a risk of introducing a transfusion transmissible
35 infection such as HIV into the nation’s blood supply, and wish to
36 be donors without compromising the safety or reliability of the
37 supply. These men wish to join their neighbors in expression of a
38 common altruistic form of civic engagement; and

39 WHEREAS, The AABB, ABC, AMA, HIVMA, and ARC
40 acknowledge the concern that a hasty relaxation of deferral criteria

1 may add uncertainty to protection of the blood supply unless
2 reliable data is available to avoid that result. The blood collectors
3 are willing to assist in collecting data regarding the actual impact
4 of changes in the deferral, in order to allow for informed
5 decisionmaking, and for the development of additional, appropriate
6 interventions to ameliorate the impact; and

7 WHEREAS, Technological advances such as individual NAT,
8 pathogen inactivation, or added means of screening hold promise
9 to substantially reduce the risk that transfusion transmissible
10 infections from all donors, including men who have had sex with
11 men, could be introduced into the blood supply, and federal
12 advisory committees have encouraged the FDA to develop these
13 technologies further; and

14 WHEREAS, In summary, the AABB, ABC, AMA, HIVMA,
15 and ARC believe that the deferral period for men who have had
16 sex with other men should be modified and that this consideration
17 should also be extended to donors of human cells, tissues, and
18 cellular and tissue-based products; and

19 WHEREAS, FDA guidelines followed by blood banks
20 throughout the United States inadvertently create unjustified stigma
21 directed towards gay, bisexual, transgender, and heterosexual males
22 on the basis that they have had sex with another male since 1977;
23 and

24 WHEREAS, The AABB, ABC, and ARC are required to follow
25 the FDA guidelines, which consequently are in conflict with state
26 nondiscrimination policies; now, therefore, be it

27 *Resolved by the Assembly and the Senate of the State of*
28 *California, jointly,* That the California State Legislature calls upon
29 the President of the United States to encourage, and the Secretary
30 of the United States Department of Health and Human Services
31 to adopt, policies that repeal the current donor suitability and
32 deferral policies of the FDA regarding blood donation by men who
33 have had sex with other men and, instead, direct the FDA to
34 develop science based policies consistent with the history described
35 in this resolution; and be it further

36 *Resolved,* That the Chief Clerk of the Assembly transmit copies
37 of this resolution to the President and Vice President of the United
38 States, to the Secretary of the United States Department of Health
39 and Human Services, to the Speaker of the House of
40 Representatives, to the Majority Leader of the Senate, and to each

- 1 Senator and Representative from California in the Congress of the
- 2 United States.

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